

DATE: January 16, 2018

TO: Planning Commission

FROM: Rebecca Lowell, Development Services

SUBJECT: PUBLIC HEARING REGARDING CODE AMENDMENTS RELATED TO TEMPORARY HOMELESS ENCAMPMENTS, CA17-002

REQUEST: Staff requests Planning Commission hold an open record public hearing and make a recommendation to the City Council on proposed amendments to MVMC Chapters 17.210, 14.05, and 14.15 regarding temporary homeless encampments.

INTRODUCTION/ BACKGROUND: Temporary homeless encampments are areas intended to be occupied on a temporary basis by homeless people that can be located inside a structure (such as a church) or outside of structure(s) under tents or similar temporary means of providing shelter. These types of facilities are commonly referred to as ‘tent cities’ when located outside of structures. Following are two images of temporary homeless encampments located in other areas.



Homeless Encampment in tents located in Seattle



Homeless Encampment inside a church located in New York

Until January 25, 2017 the City had no way to regulate homeless encampments proposed in the City. On January 25, 2017 City Council adopted Ordinance 3707 putting into place interim regulations that provide a way for these type of facilities to be located so long as certain conditions of approval were satisfied.

When the City adopts interim regulations (such as those adopted with Ordinance 3707) a public hearing is held following adoption¹. In the case of Ordinance 3707 this public hearing was held on March 27, 2017 and Ordinance 3710 was adopted by Council following this public hearing. Ordinance 3710 ratified, renewed, confirmed, and continued the interim land use regulations adopted through Ordinance 3707.

On July 26, 2017 Ordinance 3721 was adopted by Council to allow staff additional time to analyze and complete a through public process regarding regulations for temporary homeless encampments.

The list that follows summarizes the procedural steps required to process amendments and/or additions to the Mount Vernon Municipal Code (MVMC):

- The required materials were submitted by staff to the State Department of Commerce on July 26, 2017. Commerce processed these materials with Material ID# 23962 thus satisfying this procedural requirement.
- A Determination of Non-Significance (DNS) was issued on October 26, 2017 and published in the Skagit Valley Herald on October 30, 2017. The DNS comment period ended on November 8, 2017 and the appeal period ended on November 20, 2017. There were no comments or appeals submitted to the City during either timeframe. This means the SEPA requirements for non-project actions for this code amendment has been satisfied.
- A Notice of Public Hearing for the Planning Commission's January 16, 2018 and the City Council's January 24, 2018 public hearings was posted on the City's website on January 5, 2018 and published in the Skagit Valley Herald on January 9, 2018.

FINDINGS/CONCLUSIONS: Without the adoption of permanent regulations for temporary homeless encampments such as those proposed within the accompanying ordinance, there is great potential that unregulated temporary homeless encampments and uses could be sited or allowed to operate in an unregulated manner resulting in well recognized adverse direct and secondary impacts including but not limited to negative impacts to: noise, light pollution, sanitation; traffic, crime, violence, transportation levels of service, litter, risk of fire, risk to vulnerable classes of persons such as children under the age of 18, and parking.

The requirements for public participation in the development of this amendment as required by the State Growth Management Act (GMA) and by the provisions of City of Mount Vernon Resolution No. 491 have all been met.

RECOMMENDATION:

That the Commission hold a public hearing and make a recommendation to the City Council to adopt the accompanying proposed Ordinance.

ATTACHED:

- Proposed Ordinance with code amendments shown in a tracking format for amendments to existing code (i.e. red font with new text underlined and deleted text with strikethrough); and,
- Procedural Items: SEPA DNS, Dept. of Commerce, & Notice of Public Hearing.
- Copies of comments received.

¹ Per RCW 35A.63.220

ORDINANCE NO.

AN ORDINANCE OF THE CITY OF MOUNT VERNON, WASHINGTON, REPEALING INTERIM REGULATIONS REGULATING THE SITING AND OPERATION OF TEMPORARY HOMELESS ENCAMPMENTS ADOPTED WITH ORDINANCE 3721, ADOPTING PERMANENT REGULATIONS FOR TEMPORARY HOMELESS ENCAMPMENTS IN CHAPTERS 14.05, 14.15, AND 17.210 OF THE MOUNT VERNON MUNICIPAL CODE; ADOPTING FINDINGS OF FACT JUSTIFYING ITS ACTION; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, on January 25, 2017 the Mount Vernon City Council (Council) adopted Ordinance 3707 declaring an emergency and adopting interim control regulations for temporary homeless encampments; and

WHEREAS, consistent with RCW 35A.63.220 Council held a public hearing on March 27, 2017 and adopted Ordinance 3710 that ratified, renewed, confirmed, and continued the interim land use regulations adopted through Ordinance 3707; and

WHEREAS, on July 26, 2017 City Council held a public hearing and approved Ordinance 3721 adopting a work program and extending the time frame within which the interim land use regulations adopted with Ordinance 3710 would be in place; and

WHEREAS, on January 16, 2018 the Planning Commission held a public hearing and made a recommendation to the City Council on regulations related to temporary homeless encampments, following this on January 24, 2018 the City Council held a public hearing on the same regulations; and

WHEREAS, notice of the Planning Commission's public hearing on January 16, 2018 and the City Council's hearing on January 24, 2018 were both published in the Skagit Valley Herald on January 9, 2018; and

WHEREAS, the requirements for public participation in the development of the land use regulations of this ordinance as required by the State Growth Management Act (GMA) and by the provisions of City of Mount Vernon Resolution No. 491 have all been met; and

WHEREAS, the City utilized the State Attorney General Advisory Memorandum: Avoiding Unconstitutional Takings of Private Property for evaluating constitutional issues, in conjunction with and to inform its review of the Ordinance. The City has utilized the process, a process protected under Attorney-Client privilege pursuant to law including RCW 36.70A.370(4), with the City Attorney's Office which has reviewed the Advisory Memorandum has discussed this Memorandum, including the "warning signals" identified in the Memorandum, with decisions makers, and conducted an evaluation of all constitutional provisions potentially at issue and advised of the genuine legal risks, if any, with the adoption of this Ordinance to assure that the proposed regulatory or administrative actions did not result in an unconstitutional taking of private property, consistent with RCW 36.70A.370(2); and

WHEREAS, the proposed amendments are found to be in compliance with the State Growth Management Act.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MOUNT VERNON, WASHINGTON, DO ORDAIN AS FOLLOWS:

SECTION ONE. RECITALS INCORPORATED. That the City Council adopts the recitals set forth above as findings justifying adoption of this Ordinance and incorporates those recitals as if set forth fully herein.

SECTION TWO. PLANNING COMMISSION RECOMMENDATION ADOPTED. The City Council adopts the Planning Commission’s findings of fact and conclusions of law, outlined below, in their entirety.

A. Planning Commission’s Findings of Fact:

1. The procedural requirements outlined in MVMC Chapter 14.05, Procedures, have been satisfied by City staff. This includes the Notice of Public Hearing, the environmental review pursuant to the SEPA statute, and receiving expedited review from the State Department of Commerce.

B. Planning Commission’s Conclusions of Law:

1. The proposed amendments ensure that the City’s development regulations are internally consistent.
2. The requirements for public participation in the development of this amendment as required by the State Growth Management Act (GMA) and by the provisions of City of Mount Vernon Resolution No. 491 have all been met.
3. The proposed amendment is found to be in compliance with the State Growth Management Act.

C. Planning Commission Recommendation to the City Council:

At their public hearing on January 16, 2018 after review of the materials presented by City staff and holding a public hearing the Planning Commission made (insert what the PC did here).

SECTION THREE. ADDITIONAL FINDINGS OF FACT. That the City Council adopts the following as additional findings of fact justifying adoption of this Ordinance.

1. The Washington State Department of Commerce reports that the number of people experiencing homelessness in Washington State began to increase in 2013 and it appears the increase is caused by growing rents and increased usage of opiates. Further, the 2017 Annual Point in Time Count distributed by Commerce reports a total of 321 homeless persons (sheltered and unsheltered) in Skagit County; and
2. Mount Vernon, because it is the largest urban community and the County seat, has the majority of social and health services located within its jurisdictional boundaries compared to other cities/towns within the County. For example, almost 75 percent of the beds in emergency shelters for the homeless are in Mount Vernon; and
3. Without the regulations set forth herein, there is great potential that unregulated temporary homeless encampments and uses could be sited or allowed to operate in an unregulated manner resulting in well recognized adverse direct and secondary impacts including but not limited to negative impacts to: noise, light pollution, sanitation; traffic, crime, violence, transportation levels of service, litter, risk of fire, risk to vulnerable classes of persons such as children under the age of 18, and parking; and
4. Temporary homeless encampments, without regulation tailored to public safety, health, and welfare issues, have and will continue to cause direct, secondary, and cumulative negative impacts in the community. Specifically, staff has reported to Council and Council finds unregulated homeless encampments have resulted in unregulated discharges of sewerage (including human waste) into critical habitat such as streams or there associated buffers, trespass onto public and private property, large volumes of litter, the prevalence of discarded drug paraphernalia, the construction and erection of unsafe structures, risk of fire, and expenditure of substantial public resources in cleaning, monitoring, and/or removing such encampments; and

5. In 2017 City staff identified 104 unregulated and unauthorized temporary homeless encampments located on public and private property. A majority of these encampments contained garbage, drug paraphernalia, and human feces that City staff disposed of. **Exhibit A** to this Ordinance, that is hereby incorporated with this reference as if set forth fully herein, contains information on these homeless encampments and documents many of their negative impacts; and
6. That the City continues to compile data regarding or related to temporary homeless encampments including but not limited to GIS data on locations of encampments, public safety, health, welfare, and environmental impacts, clean-up costs, and homelessness in the City in general; and
7. That in the absence of adoption of this ordinance current city regulations do not address transitory accommodations such as homeless encampments or mitigate their health and safety impacts to the satisfaction and protection of both the homeless residents and the surrounding neighborhoods; and
8. Regulations for temporary homeless encampments are necessary for the preservation of the public peace, health, safety, welfare, economic vitality and continued economic growth of the City; and
9. **Exhibit B** to this Ordinance that is hereby incorporated with this reference as if set forth fully herein, contains a memo from City staff justifying the application fee being adopted as part of this Ordinance.

SECTION FOUR. That a new Chapter be added to the Mount Vernon Municipal Code to be named Chapter 17.210 Temporary Homeless Encampments, as follows:

TEMPORARY HOMELESS ENCAMPMENTS

Sections:

- 17.210.010 Purpose.
- 17.210.015 Definitions
- 17.210.020 Application for temporary homeless encampment permit.
- 17.210.030 Requirements for approval and operation.
- 17.210.040 Hardship exception
- 17.210.050 Decision criteria
- 17.210.060 Revocation of permit

17.210.010 Purpose.

The purpose of this chapter is to regulate homeless encampments within the city of Mount Vernon in compliance with the requirements of RCW 35.21.915. The standards and requirements in this chapter are the minimum necessary to protect the public health and safety and do not substantially burden the decisions or actions of religious organizations regarding the location of housing or shelter for homeless persons on property owned by such religious organizations.

17.210.015 Definitions. The following words used in this Chapter are defined as follows:

- A. **Director.** The Director of the City of Mount Vernon’s Development Services Department or Designee.
- B. **Encampment Host.** A religious organization (including but not limited to an owner, tenant, or lessee) that has the legal right to occupy the site of a Temporary Homeless Encampment. An “Encampment Host” may be the same individual, group, organization, or entity as the Encampment Sponsor or the Encampment Manager of a Temporary Homeless Encampment.

C. **Encampment Manager.** An individual, group, organization, or entity that organizes, manages or operates a Temporary Homeless Encampment. An “Encampment Manager” may be the same individual, group, organization, or entity as the Encampment Host or the Encampment Sponsor of a Temporary Homeless Encampment.

D. **Encampment Sponsor.** An individual, group, organization, or entity which, in conjunction or by agreement with the Encampment Host or Encampment Manager, provides services or support on an ongoing basis for the residents of a Temporary Homeless Encampment. An “Encampment Sponsor” may be the same individual, group, organization, or entity as the Encampment Host or the Encampment Manager of a Temporary Homeless Encampment.

E. **Temporary Homeless Encampment.** Means a temporary encampment for homeless persons on property owned or controlled by a religious organization, whether within buildings located on the property or elsewhere on the property outside of buildings.

17.110.020 Application for temporary homeless encampment permit.

A. A temporary homeless encampment is an allowed use only on property owned or controlled by a religious organization that is acting as either the Encampment Host or the Encampment Sponsor, or both, for the temporary homeless encampment.

B. Temporary Homeless Encampments shall not be permitted within the City except as an accommodation of religious exercise by an Encampment Host or Encampment Sponsor. Each Encampment Host, Encampment Manager and Encampment Sponsor of a Temporary Homeless Encampment shall jointly apply for a permit under this Chapter, and shall jointly certify compliance with all applicable use requirements and conditions of this part in the application.

C. An application for a Temporary Homeless Encampment permit shall be submitted to the Director or designee on a form approved by the Director. The application shall contain an Encampment Management Responsibility Plan. An application that does not contain an Encampment Management Responsibility Plan shall not be considered complete. The Encampment Management Responsibility Plan shall contain, at a minimum, all of the following information:

1. The name, address, and telephone number of the encampment host, and the telephone number and e-mail address for a designated representative of the encampment host; and
2. The name, address, and telephone number of the encampment sponsor and encampment manager, and the telephone number and e-mail address for a designated representative of the encampment sponsor and encampment manager; and
3. The proposed location of the temporary homeless encampment and information as to whether the temporary homeless encampment will be located inside a building or outside a building on property owned or controlled by the encampment host; and
4. The date on which temporary homeless encampment is proposed to move onto the proposed location and the date on which the temporary homeless encampment is proposed to vacate the proposed location; and
5. The maximum number of residents proposed; and
6. A site plan showing the proposed location of the facilities required by MVMC 17.210.030; and
7. A statement demonstrating how the temporary homeless encampment will meet the requirements of MVMC 17.210.030.
8. A description of the security measures that the Encampment Host, Encampment Sponsor and Encampment Manager intend to employ at the proposed location, including criteria for rejection as a resident, a code of conduct, neighborhood security patrols, if any, whether and how they will implement outstanding warrant or registered sex offender background checks, and whether and how any Temporary

Homeless Encampment residents or prospective residents may be ejected from the Temporary Homeless Encampment based on the results of such checks.

9. A transportation plan demonstrating compliance with MVMC 17.210.030

D. The application for a temporary homeless encampment permit must be accompanied by an application fee set forth in Chapter 14.15 of the MVMC.

E. An application for a temporary homeless encampment permit must be filed at least 30 days before the date on which the temporary homeless encampment is proposed to move onto the proposed location; provided, that the Director may agree to a shorter period in the case of an emergency beyond the control of the encampment host and encampment sponsor.

F. An application for a temporary homeless encampment permit shall be processed as a Type II “Temporary Homeless Encampment Permit” under Chapter 14.05 MVMC subject to administrative appeal and final administrative decision by the City Hearings Examiner.

G. In addition to the requirements for a Type II permit under Chapter MVMC 14.05, the following additional and amended procedures apply:

1. **Public Meeting Required.** The Encampment Host, Manager and Sponsor shall hold an informational public meeting that will be attended by the Director. The public meeting shall be held as early in the review process as possible for the application. Notice of the public meeting shall be mailed to those property owners identified within section 2, below. The public meeting notice will be combined with the notice of application whenever possible. Prior to the public meeting, the Encampment Host shall meet and confer with the Mount Vernon Police Department regarding the proposed security measures. At the public meeting, a representative of the Encampment Host shall present in writing and describe the proposed Encampment Management Responsibility Plan, and any input or comment received on the plan, including any comment or input from the Mount Vernon Police Department, or comment or input from schools and/or child care services under subsection 2 of this section. The public meeting shall be attended by all applicants of the proposed Temporary Homeless Encampment Permit.
2. **Additional Mailed Notice.** The requirements for mailed notice of the application set forth for Type II Permits under Chapter 14.05 shall be expanded to include owners of real property within 600 feet of the project site. Prior to the decision of the Director on a Temporary Homeless Encampment Permit, the Encampment Host, Encampment Sponsor, or Encampment Manager shall meet and confer with the administration of any public or private elementary, middle, junior high or high school within 600 feet of the boundaries of the proposed Temporary Homeless Encampment site, and shall meet and confer with the operators of any known child care service within 600 feet of the boundaries of the proposed Temporary Homeless Encampment site. The Encampment Host and the school administration and/or child care service operator shall make a good faith effort to agree upon any additional conditions that may be appropriate or necessary to address school and/or child care concerns regarding the location of a Temporary Homeless Encampment within 600 feet of such a facility. Any such conditions agreed upon between the parties shall be submitted to the Director for consideration for inclusion within the Temporary Homeless Encampment Permit. In the event the parties fail to agree on any conditions, either party may provide the Director with a written summary of the parties’ discussions, which the Director may consider in evaluating whether the criteria for the Temporary Homeless Encampment Permit are met, or the need for additional conditions upon the Temporary Homeless Encampment Permit based on the applicable decision criteria.
3. The applicant shall provide notice of the application by posting two Land Use Change signs on the site or in a location immediately adjacent to the site that provides visibility to motorists using adjacent streets. The Director shall establish standards for timing of installation and removal of the signs and the public meeting notice.

H. The Director shall coordinate review of the temporary homeless encampment permit with appropriate city staff and with other appropriate public agencies, including, but not limited to, Skagit County Public Health Department and the Mount Vernon Fire Department. The Director may issue the temporary homeless encampment permit if the application demonstrates that:

1. All of the requirements of MVMC 17.210.030 are met; and
2. The temporary homeless encampment will not be materially injurious to the public health, safety, and welfare or materially injurious to the property or improvements in the immediate vicinity.

I. Decisions of the Director granting, granting with conditions, or denying a temporary homeless encampment permit shall be subject to one open record administrative appeal to the Hearing Examiner who shall render a final administrative determination. The Hearing Examiner's decision shall be subject to appeal to the Skagit County Superior Court as provided in Chapter 36.70 RCW. In the event of any conflict with any other provisions of the Mount Vernon Municipal Code, this provision shall control notwithstanding MVMC 14.05.020.

17.110.030 Requirements for approval and operation.

A. A Temporary Homeless Encampment must meet all of the following requirements in addition to any other requirements imposed by this chapter:

1. The property or building must be of sufficient size to accommodate the proposed number of tents and residents and the on-site facilities required by this section.
2. Adequate provision must be made for the provision of drinking water, disposal of human waste, disposal of garbage and other solid waste, and the provision of other services, including, but not limited to, the following facilities:
 - a. Sanitary portable toilets or other restroom facilities in the number required to meet health regulations for the residents and staff of the temporary homeless encampment; and
 - b. Hand washing stations by the toilets or restrooms and by food service areas; and
 - c. Refuse receptacles meeting the requirements of the city's solid waste division; and
 - d. A food service tent or other food service building or facility meeting health department requirements; and
 - e. A management tent or other management office or facility providing administrative and security services and readily identifiable to residents and visitors.
3. The temporary homeless encampment shall meet all setbacks for the zoning district in which the property is located; provided, that where the temporary homeless encampment abuts property containing residential uses, the temporary homeless encampment shall be set back 20 feet from the property line or the minimum setback provided in the Mount Vernon Municipal Code, whichever is greater.
4. A six-foot-tall sight obscuring fence shall be provided around the perimeter of the temporary homeless encampment unless the Director determines that there is sufficient vegetation, topographic variation, or other site conditions to provide equivalent screening of the use from adjacent properties.
5. Any and all exterior lighting for the temporary homeless encampment shall be directed downward and away from adjacent properties to minimize light impacts.
6. The maximum number of residents within a temporary homeless encampment shall not exceed 100.
7. Parking for at a minimum five vehicles shall be provided and otherwise comply with Chapter 17.84 of the MVMC.

8. No children under the age of 18 shall be allowed in the temporary homeless encampment. If a child under the age of 18 attempts to reside at the temporary homeless encampment, the Encampment Sponsor, the Encampment Host, or the Encampment Manager shall immediately contact Child Protective Services.
9. No animals shall be permitted in the temporary homeless encampment, except for service animals.
10. The Encampment Sponsor and/or the Encampment Host shall submit a code of conduct for the temporary homeless encampment and a statement describing how the code of conduct will be enforced. The code of conduct shall, at a minimum, contain the following:
 - a. A prohibition on the possession or use of illegal drugs or alcohol.
 - b. A prohibition on the possession of guns, knives with blades in excess of three inches, and weapons of all kinds.
 - c. A prohibition on violence.
 - d. A prohibition on open flames.
 - e. A prohibition on trespassing into private property in the surrounding neighborhood.
 - f. Hours during which quiet is to be observed.
11. A transportation plan must be submitted providing for access to transit. All temporary homeless encampments must be located within one-half mile of transit service. This measurement shall be taken in a straight line from the closest property line where the temporary homeless encampment is proposed to the existing transit service provided by Skagit Transit. During hours when public transportation is not available, the Encampment Sponsor, Encampment Host, or Encampment Manager shall also make transportation available to anyone who is rejected from or ordered to leave the Temporary Homeless Encampment.
12. The Temporary Homeless Encampment must comply with all regulations of Washington State, the City of Mount Vernon, and the Skagit County Public Health Department. The Temporary Homeless Encampment shall comply with the requirements of the International Fire Code and Washington Cities Electrical Code as adopted by the city of Mount Vernon. The Encampment Sponsor and Encampment Host shall permit inspections at all reasonable times by appropriate public officials from the agencies enforcing these codes for code compliance.
13. The Encampment Sponsor shall take all reasonable and legal steps to obtain verifiable identification from prospective residents of the temporary homeless encampments and use the identification to obtain sex offender and warrant checks from the appropriate agency. If the warrant and sex offender check reveals that a prospective resident or existing resident is a sex offender who is required to register with police or that the prospective resident has an outstanding warrant, the Encampment Sponsor shall reject the prospective resident or evict the existing resident.
14. Adequate access for fire and emergency medical apparatus shall be provided.
15. Adequate separation between tents and other structures shall be to limit fire exposure and provide for emergency exiting by residents.
16. Temporary homeless encampment permits may be approved only once over a one (1) year period for no more than 90 consecutive days. These time limits shall apply to property where a temporary homeless encampment is permitted regardless of whether or not an Encampment Manager or Sponsor is different. For example, if a temporary homeless encampment permit was issued on December 1 of a given year for a 90 day period the site upon which the permit was issued could not host another temporary homeless encampment until December 1 of the following year.

17.210.040 Hardship exception

An Encampment Host, Encampment Sponsor, or Encampment Manager may petition the Director for an exception from any of the Specific Use Requirements of MVMC 17.210.030 or other condition imposed by the Director upon grounds of hardship. In considering whether a hardship exception should be granted, the Director may consider whether the provision or provisions at issue substantially burden the siting or hosting of a Temporary Homeless Encampment at a particular location or by a particular Encampment Host, Encampment Sponsor, or Encampment Manager, the effects on health and safety of residents and the community should the exception be granted, and whether a less restrictive, alternative means to achieve the health and safety objectives is proposed and/or is reasonably available.

17.210.050 Decision criteria.

The Director may approve or approve with modifications an application for a Temporary Encampment Permit if:

- A. The Temporary Homeless Encampment complies with the Use Requirements set out in MVMC 17.210.030 and other applicable requirements of this Chapter; and
- B. The Temporary Homeless Encampment will not be materially detrimental to the public health, safety or welfare of the Temporary Homeless Encampment residents or the surrounding community; and
- C. The imposition of a condition under which the City reserves the right to impose additional conditions or to reconsider the Temporary Homeless Encampment Permit within a certain timeframe from approval date, based on substantiated complaints filed with the City.

17.210.060 Revocation of permit.

The Director may revoke a temporary homeless encampment permit for violation of any of the requirements of this Chapter. A decision of the Director to revoke a temporary homeless encampment permit is a Type II decision processed in the same manner as a Type II “Temporary Homeless Encampment Permit” decision that may be appealed to the Hearing Examiner for final determination provided in Chapter 14.05 MVMC. The decision of the Director to revoke a temporary homeless encampment permit shall be stayed during any appeal to the Hearing Examiner, but the stay will be lifted if the Hearing Examiner upholds the revocation. Decisions of the Hearing Examiner on a temporary homeless encampment permit revocation may be appealed to the Skagit County Superior Court as provided in Chapter 36.70 RCW.

SECTION FIVE. Section 14.05.050, Permit Types, of the Mount Vernon Municipal Code is hereby repealed and reenacted with the new section to read as follows:

14.05.050 Permit types.

A. Permits Classified by Type. Applications for development permits shall be categorized and processed as one or more of the six permit types described in subsection B of this section. Where applications are categorized as more than one type, the code that pertains to the application needs to be evaluated as more than one procedural process is available depending on specific circumstances particular to that application. Applications shall be classified in accordance with the table in MVMC 14.05.060; provided, that shoreline permits under the shoreline management master program shall be processed as described in that program; and that annexations shall be processed according to Chapter 35A.14 RCW. Annexations shall also be subject to additional city specific submittal and procedural requirements as outlined within this chapter.

B. Permit Types.

1. Type I – Administrative Review without Notice. Type I applications are those applications where a final decision is made by the director or the director’s designee without public notice or a public hearing. That decision may be appealed in an open record appeal hearing to the hearing examiner. The hearing examiner decision may be appealed in a closed record appeal to the city council. An applicant can file an appeal to the building code board of appeals following the director’s decision for matters concerning the suitability of alternative building materials, the suitability of alternative methods of construction, or interpretation of building regulations.
2. Type II – Administrative Review with Notice. Type II applications are those applications where a final decision is made by the director or the director’s designee after public notice, but without a public hearing. That decision may be appealed in an open record appeal hearing to the hearing examiner. The hearing examiner decision may be appealed in a closed record appeal to the city council; for all type II Permits except permits authorizing Temporary Homeless Encampments which shall be subject to appeal to the Skagit County Superior Court as provided in Chapter 36.70 RCW.
3. Type III – Hearing Examiner Review with Public Hearing. Type III applications are those applications that require an open record hearing before the hearing examiner and for which the hearing examiner makes the final decision. For all applications except variances, the hearing examiner decision may be appealed in a closed record appeal to the city council. Appeals for variances go to superior court, except appeals of hearing examiner shoreline variance decisions go to the city council.
4. Type IV – Council Review with Public Hearing. Type IV applications are those applications that require an open record predecision hearing before the hearing examiner or planning commission, and for which the hearing examiner or planning commission action is only a recommendation to the city council. The city council shall make the final decision after a closed record hearing on Type IV actions.
5. Type V – Council Review without Hearing. Type V applications are those applications that do not require a public hearing and for which a final decision is made by the city council.
6. Type VI – Legislative. Type VI applications are those applications that require legislative action by the city council at an open record hearing after one or more open record public hearing(s) and a recommendation from the planning commission, with the exception of street vacations which shall only have one open record public hearing before the city council.

C. Permits Not Classified by This Chapter. If this chapter does not expressly provide for review using one of the six types of procedures and a specific procedure is not specified by law, or if there are conflicting procedural requirements, the director shall classify the application as one of the six procedural types and it will be processed accordingly. Questions about what procedure is appropriate shall be resolved in favor of the type providing the greatest public notice and opportunity to participate.

SECTION SIX. Section 14.05.060, Permit Classification Table, of the Mount Vernon Municipal Code is hereby repealed and reenacted with the new section to read as follows:

Land Use Permit/Action	Permit Type					
	I	II	III	IV	V	VI
Administrative Determination	X					
Binding Site Plan		X				
Boundary Line Adjustment	X					
Building Permit SEPA Exempt	X					
Code Interpretation	X					
Comprehensive Plan Map (and Rezone) or Text Amendments						X
Administrative Conditional Use Permit		X				
Conditional Use Permit			X			
Conditional Use Permit for EPFs				X		
Critical Area Ordinance Reasonable Use Exception, Variances and Appeals per MVMC 15.40.130			X			
Design Review with Building Permit	X					
Design Review with Hearing Examiner Land Use Permit			X			
Design Review Waiver per Chapter 17.70 MVMC	X		X			
Development Regulation Text Amendments to Chapter 3.40 MVMC and MVMC Titles 15, 16 and 17						X
Development Regulation Text Amendments to Chapters Except Chapter 3.40 MVMC and MVMC Titles 15, 16 and 17					X	
Environmental Review		X				
Fence or Wall Permit	X					
Fill and Grade Permit I	X					
Fill and Grade Permit II		X				
Floodplain District Development Permit				X		
Historic Structure – Designation				X		
Historic Structure – Exterior Alteration		X				
Home Occupation – Type I or Exemption	X					
Home Occupation – Type II		X				
Land Clearing Permits and Management Plans		X				
Land Clearing Moratorium Removal			X			
Land Clearing Single-Family Residential Moratorium Exception		X				

Land Use Permit/Action	Permit Type					
	I	II	III	IV	V	VI
Landscape Modifications per MVMC 17.93.080	X					
Lot Certification	X					
Major Modification	X	X	X	X		
Master Plan Approval per MVMC 17.30.090				X		
Minor Modifications	X					
Model Home Permit	X					
Nonconforming Use – Ordinary Maintenance or Repair	X					
Nonconforming Use – Certificate of Use or Occupancy	X					
Nonconforming Use – Special Permission to Enlarge, Expand, or Reconstruct				X		
Plat, Preliminary				X		
Plat, Final					X	
Planned Unit Development				X		
Rezoning Consistent with Comprehensive Plan				X		
Shoreline Conditional Use Permit			X			
Shoreline Exemption	X					
Shoreline Substantial Development Permit		X				
Shoreline Variance			X			
Short Plat		X				
Site Plan Approval	X					
Site Plan Approval per MVMC 17.39.150				X		
Special Use Permit			X			
Special Use Permit for ADUs		X				
Street Vacations Subject to Procedural Requirements Outlined in Chapter 35.79 RCW						X
Street Design Modifications per Chapter 16.16 MVMC	X					
<u>Temporary Homeless Encampment</u>		X				
Temporary Use Permit Per Chapter 17.92 MVMC	X					
Transfer of Development Rights – Certificate of Available Rights	X					
Transfer of Development Rights – Approval to Utilize	X					
Transportation Concurrency when > 75 PM Peak Hour Trips Are Generated				X		
Variances			X			

Land Use Permit/Action	Permit Type					
	I	II	III	IV	V	VI
Waivers per MVMC 14.10.110, Chapter 16.20 MVMC, and MVMC 17.84.130				X		
Zoning Boundary Determination per MVMC 17.09.040			X			
Zoning Variances Not Exceeding 20 Percent of Lot Width, Setbacks, Lot Coverage, Building Height, Parking, and Landscape Buffers		X				

SECTION SEVEN. Section 14.05.070, Summary of Permit Processes, of the Mount Vernon Municipal Code is hereby repealed and reenacted with the new section to read as follows:

	Type I	Type II	Type III	Type IV	Type V	Type VI	Shoreline Permits and Annexations
Pre-Application Meeting	No	Required for short plats, building permits with street improvements, and all other non-single-family residential actions	Required, unless waived by director	Required, unless waived by director	Required, unless waived by director	Required, unless waived by director	Required, unless waived by director
Letter of Completeness	Required	Required	Required	Required	Required	Required	Required
Notice of Application	No	Required, unless exempted by MVMC 14.05.040	Required, unless exempted by MVMC 14.05.040	Required, unless exempted by MVMC 14.05.040	Required, unless exempted by MVMC 14.05.040	Required, unless exempted by MVMC 14.05.040	See Chapter 35A.14 RCW, Annexation by code cities, or the shoreline master program (SMP)
Notice of Hearing	Not Applicable	Not Applicable	Required	Required	Required	Required	See Chapter 35A.14 RCW or the SMP
Open Record Pre-Decision Public Hearing	No	No	Yes, before hearing examiner to render final decision	Yes, before hearing examiner or planning commission, as noted in MVMC 14.05.080 to make recommendation to city council for final decision at a closed record hearing	No	Yes, before planning commission to make recommendation to city council for final decision at a closed record hearing except for street vacations which shall be heard only before the city council	See Chapter 35A.14 RCW or the SMP

	Type I	Type II	Type III	Type IV	Type V	Type VI	Shoreline Permits and Annexations
Administrative Appeal	Yes, open record appeal hearing before the hearing examiner or the building code board of appeals	Yes, open record appeal hearing before the hearing examiner	Yes, closed record appeal hearing before city council except for variances <u>and permits authorizing temporary homeless encampments</u>	No	No	No	See Chapter <u>35A.14</u> RCW or the SMP
Notice of Decision	Required, pursuant to MVMC <u>14.05.150</u>	Required, pursuant to MVMC <u>14.05.150</u>	Required, pursuant to MVMC <u>14.05.150</u>	Required, pursuant to MVMC <u>14.05.150</u>	Required, pursuant to MVMC <u>14.05.150</u>	Required, pursuant to MVMC <u>14.05.150</u>	See Chapter <u>35A.14</u> RCW or the SMP
Recommendation Made By	Not Applicable	Not Applicable	Not Applicable	Review authority noted in MVMC <u>14.05.080</u>	Review authority noted in MVMC <u>14.05.080</u>	Planning commission except for street vacations	See Chapter <u>35A.14</u> RCW or the SMP
Final Decision Made By	Community and economic development director subject to administrative appeal	Community and economic development director subject to administrative appeal	Hearing examiner subject to administrative appeal except for variances	City council	City council	City council	See Chapter <u>35A.14</u> RCW or the SMP
Judicial Appeal	See MVMC <u>14.05.190</u>	See MVMC <u>14.05.190</u>	See MVMC <u>14.05.190</u>	See MVMC <u>14.05.190</u>	See MVMC <u>14.05.190</u>	See MVMC <u>14.05.190</u>	See Chapter <u>35A.14</u> RCW or the SMP

SECTION EIGHT. Section 14.05.180, Appeals to Council, of the Mount Vernon Municipal Code is hereby repealed and reenacted with the new section to read as follows:

A. Decision Subject to Appeal. Type II and III decisions listed within MVMC 14.05.060 (except variances and permits for Temporary Homeless Encampments) may be appealed to the city council, in writing and must contain the information outlined in MVMC 14.05.160(C)(3). However, Type II decisions may only be appealed to the city council after they have been appealed to the hearing examiner; and the appellant is appealing the hearing examiner decision to the city council.

B. Time for Appeal. Any such appeal must be filed by a party of record aggrieved by the decision and shall submit the appeal to the CEDD, within 14 days from the date of the report decision. The appeal must contain the information outlined in MVMC 14.05.160(C).

C. Transmittal of Record to Council. The CEDD shall forward to the members of the city council all of the pertinent documents, including the written decision, findings and conclusions of the examiner, the notice of appeal, and additional letters submitted by the parties of record.

D. Council Review Procedures. No open record public hearing shall be held by the city council. All meetings of the Mount Vernon city council shall be in accordance with Chapter 42.30 RCW, and all persons shall be permitted to attend any meeting of the city council except as otherwise provided in Chapter 42.30 RCW.

E. Council Evaluation Criteria. The consideration by the city council shall be based solely upon the record, the hearing examiner report, the appeal and additional submissions by parties.

F. Closed Record Hearing – Additional Evidence. No or limited new evidence or information will be allowed to be submitted and only appeal argument allowed. New or additional evidence or testimony shall be accepted by the city council only upon a showing by the party offering the evidence that the evidence could not reasonably have been available at the time of the hearing before the examiner; or that relevant information that, in the opinion of the council, was improperly excluded by the examiner. Appellants who believe that information was improperly excluded, or that they have new evidence that could not reasonably have been available at the time of the hearing below, must specifically request, in writing, prior to the closed record appeal hearing, that the information be made part of the record. The request shall describe the information excluded, its relevance to the issues appealed, the reason(s) that the information was excluded by the hearing body/officer, why the hearing body/officer erred in excluding the information, or why it could not reasonably have been available at the time of the hearing below. No reference to excluded information shall be made in any presentation to the city council on the merits, written or oral, until the city council has determined that the information should be admitted. If the council determines that additional evidence is required, the council shall remand the matter to the examiner for reconsideration and receipt of additional evidence. The cost of transcription of the hearing record shall be borne by the appellant. In the absence of an order by the city council authorizing new or additional evidence or testimony, and a remand to the hearing examiner for receipt of such evidence or testimony, it shall be presumed that no new or additional evidence or testimony has been accepted by the city council, and that the record before the city council is identical to the hearing record before the hearing examiner.

G. Council Action. If, after examination of the project record for an appeal of a decision of the hearing examiner, the council determines that a substantial error in fact or law exists in the record the council may remand the application to examiner for reconsideration, modify the decision, or reverse the decision.

H. Decision Documentation. The decision of the city council shall be in writing and shall specify any modified or amended findings and conclusions other than those set forth in the report of the hearing examiner. Each material finding shall be supported by substantial evidence in the record. The burden of proof shall rest with the appellant.

I. Council Action Final. The action of the council approving, modifying or rejecting a decision or recommendation of the examiner shall be final and conclusive unless appealed within the time frames established under MVMC 14.05.190.

SECTION NINE. Exhibit A, referenced within Mount Vernon Municipal Code 14.15.010, Established, shall include a new fee as follows:

Temporary Homeless Encampment Permits:	\$1,500.00
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SECTION TEN. REPEALER. The following Ordinance shall be repealed in its entirety only after this Ordinance is in full effect and force by operation of law as set forth in Section Fourteen of this Ordinance.

A. Ordinance No. 3721, passed and approved on July 26, 2017.

Entitled:

AN ORDINANCE OF THE CITY OF MOUNT VERNON, WASHINGTON, DECLARING AN EMERGENCY, ADOPTING AND RENEWING INTERIM REGULATIONS AND A WORKPLAN TO ESTABLISH PERMANENT REGULATIONS TO ADDRESS TEMPORARY HOMELESS ENCAMPMENTS AFTER STUDY AND PUBLIC PROCESS.

B. Repeal shall not revive ordinances.

The repeal of an ordinance shall not repeal the repealing clause of an ordinance or revive any ordinances which have been repealed thereby.

SECTION ELEVEN. City staff is hereby directed to complete preparation of the final ordinance, including correction of any typographical or editorial edits.

SECTION TWELVE. SEVERABILITY. Should any section, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this Ordinance be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances.

SECTION THIRTEEN. SAVINGS CLAUSE. All previous ordinances which may be repealed in part or their entirety by this ordinance, shall remain in full force and effect until the effective date of this ordinance.

SECTION FOURTEEN. This ordinance shall be in full force and effect five days after its passage, approval, and publication as provided by law.

PASSED AND ADOPTED this 24th day of January, 2018.

SIGNED AND APPROVED this ____ day of _____, 2018.

Doug Volesky, Finance Director

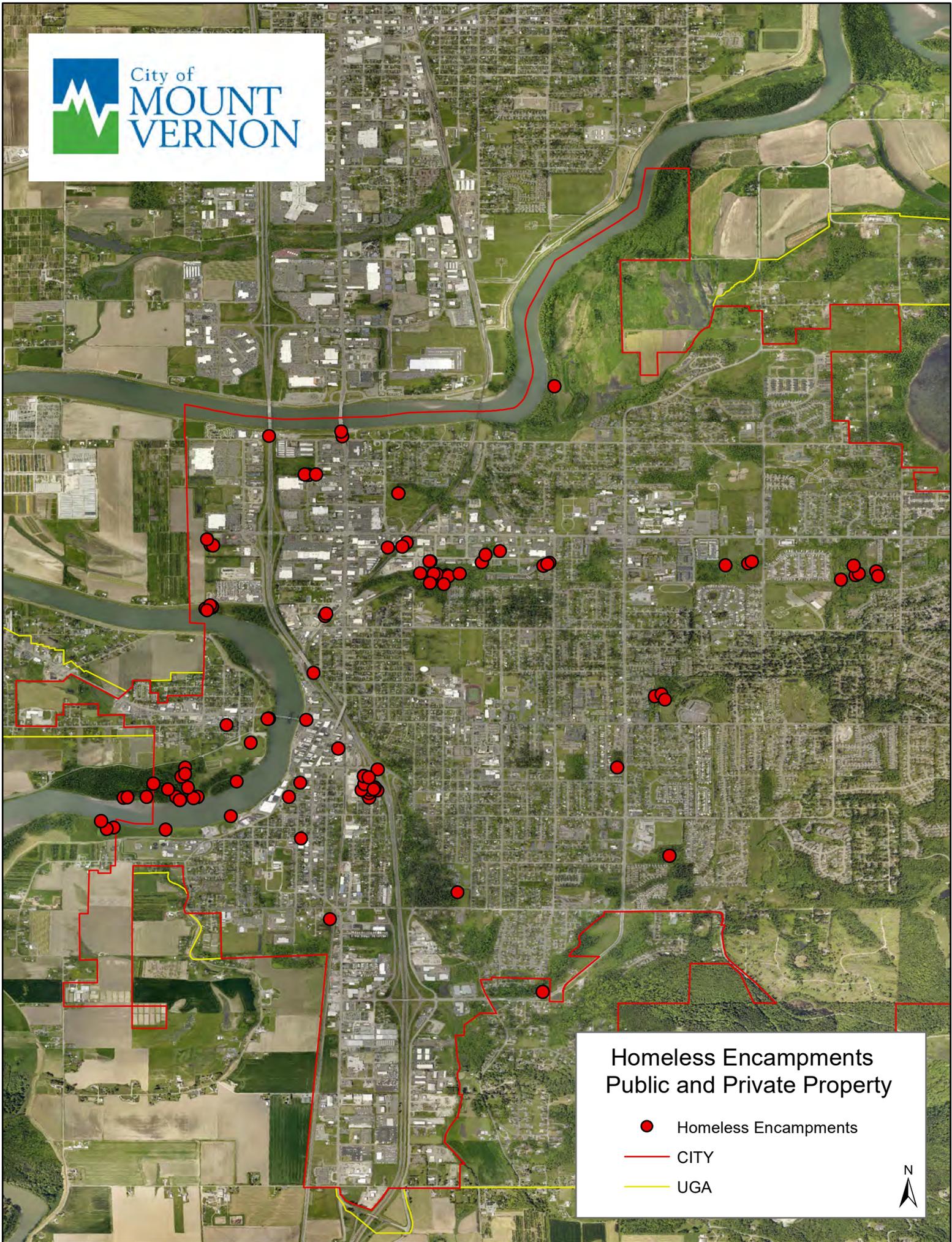
Jill Boudreau, Mayor

Approved as to form:

Kevin Rogerson, City Attorney

Published _____

EXHIBIT A



Homeless Encampments Public and Private Property

- Homeless Encampments
- CITY
- UGA



Date	Property	Active	HAZMAT	Other - HAZMAT	Location
6/23/2017	Public	No	Other	none	City Hall
6/23/2017	Public	No	Other	none	
6/23/2017	Public	Yes	Other	Nothing located	S 6th and Union
6/27/2017	Private	No	Biological,Other	human Waste	128 S Barker St
6/27/2017	Public	No	Biological		Edgewater West
6/27/2017	Private Shane Property	Yes	Other None observed. Clean camp.	unk	Edgewater West
6/27/2017	Public	Yes	Other	unk	Edgewater West
6/27/2017	Public	Yes	Other	steve	Edgewater West
7/14/2017	Private	Yes	Human Waste		1200 blk Roosevelt
7/14/2017	Public	Yes	Other	needles	Riverside bridge
7/6/2017	Private	Yes	Other	pend	900 Blk S 6th
7/6/2017	Private	Yes	Other		900 Blk S 6th
7/18/2017	Public	Yes	Other	trash	1600 Blk Urban
7/14/2017	Public	No	Other	mess	kulshan trail
7/14/2017	Public	No	Other	trash	Kulshan Trail
7/14/2017	Public	Yes	Other	debris	William Way Trail
7/14/2017	Public	No	Other	needles	kulshan Trail
7/24/2017	Private	No	Other	trash	Kulshan Trail
7/24/2017	Public	Yes	Other	garbage	kulshan trail
8/7/2017	Private	Yes	Biological		900 Blk S 6th
7/26/2017	Private	No	Other,Biological	needles	900 Blk S 6th
8/7/2017	Private	Yes	Biological		Leigh Way
8/7/2017	Public	Yes	Other		city owned property
7/26/2017	Public	Yes	Other	stored stuff	Edgewater
8/9/2017	Private	No	Biological		Kincaid P&R
8/14/2017	Private	Yes	Other,Biological	needles	Kulshan Trail
8/25/2017	Private	Yes	Other		Shane property
8/25/2017	Public	Yes	Biological,Chemical		Edgewater
8/25/2017	Public	No	Other		Edgewater
8/25/2017	Public	Yes	Biological,Chemical		Edgewater West trail
8/24/2017	Public	Yes	Other		ted Rep Trail
8/15/2017	Public	No	Other		3400 E College
8/15/2017	Public	No	Other		3400 E College
8/15/2017	Public	Yes	Other		3409 E College
9/29/2017	Private	Yes	Biological,Other	needles	400 Blk S Laventure
8/30/2017	Private	Yes	Other		2800 Kulshan Trail
8/30/2017	Private	No	Other	ckeanuo	2900 Kulshan Trail
8/30/2017	Private	No	Other	needs cleaning	2900 Blk Kulshan Trail
8/29/2017	Private	Yes	Other		best Western
8/28/2017	Public	Yes	Other		city owned property
9/1/2017	Public	Yes	Other	trash	city Parcel WWTP
9/28/2017	Public	Yes	Other		WWTP Dike area
9/13/2017	Private	Yes	Other		900 Blk S 6th
9/7/2017	Public	Yes	Other	none	N Lions
9/7/2017	Public	Yes	Other	none	N Lions
9/5/2017	Public	Yes	Other		North Lions
9/6/2017	Private	No	Other		William Way PSE Substation
9/7/2017	Public	Yes	Other	none	N Lions
9/5/2017	Public	Yes	Other		North Lions
9/5/2017	Public	Yes	Other		North Lions
9/6/2017	Private	No	Other		William Way PSE Substation
9/6/2017	Private	Yes	Biological,Chemical,Other	debris	2300 Market

9/14/2017	Public	Yes	Other		Hillcrest
9/14/2017	Public	Yes	Biological		Edgewater
9/15/2017	Private	Yes	Other		1300 Blk Roosevelt
9/18/2017	Public	Yes	Other		1200 Kulshan Trail
9/18/2017	Public	Yes	Other		1300 William Way Trail
9/18/2017	Public	Yes	Other		Riverside bridge
9/18/2017	Private	Yes	Other	trash needles human waste	Behind Coastal Darm
9/18/2017	Public	Yes	Other		Gleaners
9/19/2017	Public	Yes	Other		little Mountain school
9/25/2017	Public	Yes	Other	none noted	N Lions
10/10/2017	Private	No	Biological,Chemical		Kulshan Trail AS Irpoerty
10/10/2017	Public	Yes	Other		Trumpeter Trail
10/6/2017	Public	No	Biological		Edgewater
10/11/2017	Public	Yes	Other		Trumpeter Trail
10/16/2017	Private,Public	Yes	Other		DAYS BNSF MV Building Center ROW
10/16/2017	Private	Yes	Other		DSHS
10/19/2017	Public	No	Other	trash	Edgewater West
10/19/2017	Public	Yes	Other	trash	Edgewater West
10/23/2017	Private	Yes	Other		Urban
10/25/2017	Public	Yes	Other	none	N Lions
10/23/2017	Private	Yes	Other		Urban
10/26/2017	Private	Yes	Biological		ALFCO David Lynch
10/26/2017	Private	Yes	Biological		ALFCO
10/26/2017	Public,Private	Yes	Other	Nonr	PAW Substation
10/27/2017	Private	Yes	Other		market street
10/30/2017	Public	Yes	Other		Edgewater
10/30/2017	Public	No	Other		Edgewater
10/31/2017	Private	Yes	Other		Shane Property in county
11/6/2017	Public	Yes	Other		Edgewater West
11/6/2017	Private	Yes	Other		Leigh Way Pac pride jwo
11/13/2017	Public	Yes	Other		trumpeter trail near Haggens
11/14/2017	Private	Yes	Other	garbage	Kincaid p&r
11/14/2017	Private	Yes	Other		900 Blk S 6th
12/8/2017	Public	Yes	Biological		I5 Kincaid
12/8/2017	Private	Yes	Other		1400 Blk Buck Way
12/11/2017	Public	No	Other		Stuart rd overpass
12/11/2017	Public	Yes	Other	trash	Gleanors
12/18/2017	Private	Yes	Other,Biological		s 6th
12/20/2017	Private	Yes	Other		Anderson Rd outside City near Bonnie Rae park
12/19/2017	Public,Private	Yes	Other		William Way. P80472 City Parcel and PSE
12/21/2017	Public	Yes	Biological,Other		W Division Bridge
12/21/2017	Public	Yes	Other		Cameron way overpass
12/22/2017	Public	No	Other		N Lions
12/22/2017	Private	Yes	Other	trash	Blackburn at the
12/26/2017	Public	Yes	Other	trash	W Edgewater
12/26/2017	Public	No	Biological,Other		Edgewater island
1/5/2018	Private	Yes	Biological,Other		1328 Cleveland
12/28/2017	Private	Yes	Biological,Chemical,Other		3700 E College Way
12/28/2017	Private	No	Other		3700 E College Way
1/8/2018	Public	No	Other	trash	Park St at Dike
1/8/2018	Private	No	Other	trash	Best Western

1/8/2018	Private	No	Other	trash	Best Western
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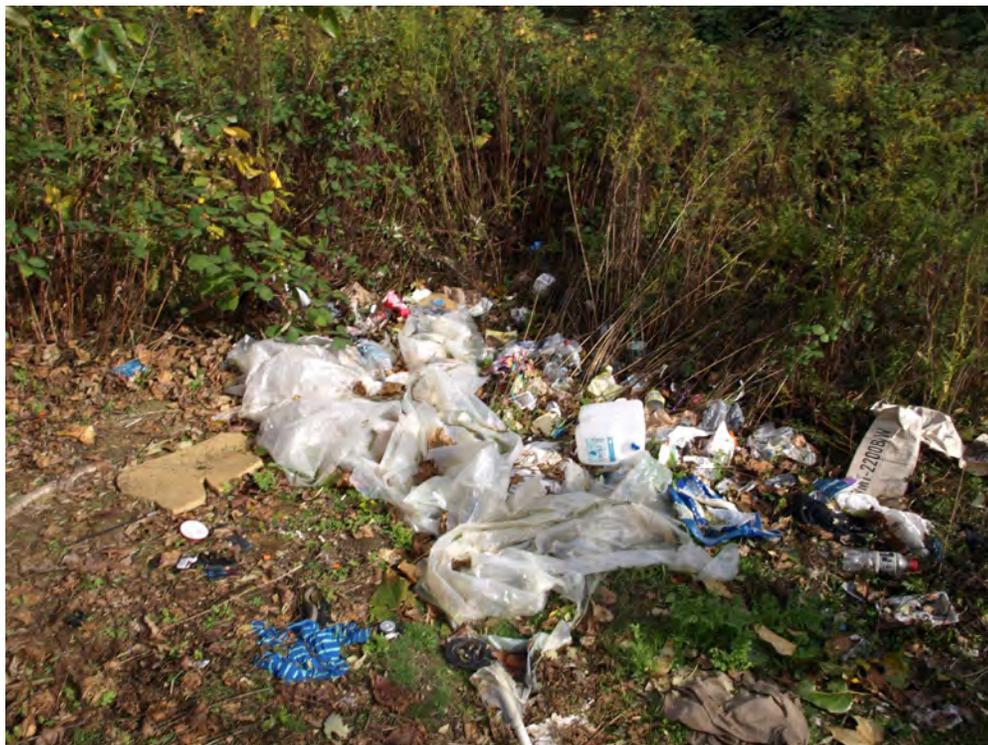






EXHIBIT B

Memo from City Staff Justifying the Application Fee Adopted with this Ordinance



DATE: January 3, 2018

TO: Mayor Boudreau and City Council

FROM: Rebecca Lowell, City Planner

SUBJECT: PERMIT FEES ASSOCIATED WITH TEMPORARY HOMELESS ENCAMPMENTS

INTRODUCTION/BACKGROUND:

Permit fees for temporary homeless encampment uses within the City need to be addressed as part the City’s development regulations. Following is an outline of the staff time anticipated to process most of these permits.

FINDINGS:

Evaluating the land use process proposed as part of regulating Temporary Homeless Encampments the following summarizes the *minimum* staff time and costs that would likely be spent processing such permits.

- Permit intake and routing copies of the permit to other City Departments and Agencies for their input: **2 hours**
- Reviewing the materials submitted to ensure that the performance standards outlined within the code are complied with: **3 hours**
- Creating a public notice and mailing it to those within 600 feet of the proposed Temporary Homeless Encampment: **2 hours**
- Attending the public meeting that is required: **2 hours**
- Answering questions and providing information to those contacting the City after being notified of a proposed Temporary Homeless Encampment: **2 hours**
- Writing the Staff Report and issuing a permit for a Temporary Homeless Encampment: **5 hours**
- Inspections: **4 hours**
- Cost of postage to mail notices to property owners within 600 feet of where a Temporary Homeless Encampment is proposed
- Cost of the two Land Use signs that are required to be posted on a site where a Temporary Homeless Encampment is proposed
- Cost of administrative staff time to complete tasks such as: setting up files, making copies, placing items on the City’s website.

The City’s current fee structure for Development Services staff time is billed at \$75.00/hr (MVMC Chapter 14.15). The hourly estimates in the bulleted list above add up to a total of 20 hours of staff time. Multiplying staff’s hourly rate of \$75.00 by 30 hours equals \$1,500.00.

While interim regulations were in place Development Services staff processed one permit for a Temporary Homeless Encampment prior to the permanent regulations proposed within this Ordinance. Staff notes that a total of 55 hours of time were spent by planning staff with this one particular permit identified as PL17-131.

RECOMMENDATION:

Council adopt a permit fee of \$1,500.00 for Temporary Homeless Encampments



**DETERMINATION OF NON-SIGNIFICANCE
& NOTICE OF PUBLIC HEARINGS
FILE NOS: CA17-002 and CA17-006**

DESCRIPTION OF PROPOSED ACTION: the City of Mount Vernon is considering code amendments to portions of Mount Vernon Municipal Code to regulate cannabis transportation licensee businesses and homeless encampments.

The code amendments pertaining to cannabis transportation licensee businesses are proposed to amend the following portions of the MVMC: Chapters 17.56 (Commercial-Limited Industrial Zone), 8.08 (Nuisances), and 17.72 (Provisions Applicable to all Districts). Interim land use regulations for cannabis transportation licensee businesses have been adopted by City Council with Ordinance 3713 and 3720. Should the current regulations be adopted they would be permanent regulations to replace the interim ones.

The code amendments pertaining to homeless encampments are proposed to amend MVMC Chapter 14.05 (Procedures) and to create a new chapter of the MVMC proposed to be named Temporary Homeless Encampments. Interim land use regulations for homeless encampments have been adopted by City Council with Ordinance 3707, 3710, and 3721. Should the current regulations be adopted they would be permanent regulations to replace the interim ones.

LOCATION: this is a non-project action that would apply city-wide.

APPLICANT & LEAD AGENCY: City of Mount Vernon, Development Services Department

The lead agency for this proposal has determined that the proposed amendments will not have a probable adverse impact on the environment. An environmental impact statement (EIS) is not required under RCW 43.21C.030(2)(c). This decision was made after review of a completed environmental checklist and other information on file with the lead agency. This information is available to the public upon request.

PUBLIC HEARINGS: Public hearings to consider the above-described proposed changes to the referenced MVMC sections to regulate cannabis transportation licensee businesses are scheduled before the Mount Vernon Planning Commission at 6 p.m. on **Tuesday, November 21, 2017**; and before the City Council at 7 p.m. on **Wednesday, December 13, 2017**. Both hearings will be held at the Police and Court Campus, 1805 Continental Place, Mount Vernon. The public hearings for the MVMC sections to regulate temporary homeless encampments have yet to be scheduled.

Environmental Determination Comment Process: Comments on the environmental determination must be received in writing on or before **November 8, 2017** (14 days from the date of issuance). Comments received within the 14 days will be reviewed and considered by the Development Services Department. Those persons wishing to submit comments will receive a response from the Responsible Official prior to the end of the SEPA appeal period.

Environmental Determination Appeal Process: Appeals of the environmental determination must be filed in writing on or before 5 PM **November 20, 2017** (10 days following the 14 day comment period).

Appeals must be filed in writing together with the required \$100.00 application fee with: Hearing Examiner, City of Mount Vernon, P.O. Box 809, Mount Vernon, WA 98273. Appeals to the Examiner are governed by City of Mount Vernon Municipal Code Section 15.06.215. Additional information regarding the appeal process may be obtained from the City of Mount Vernon Development Services Department, (306) 336-6214.

CONTACT PERSON: Rebecca Lowell, Senior Planner
City of Mount Vernon
Development Services Department
P.O. Box 809 / 910 Cleveland Avenue
Mount Vernon WA 98273
Telephone - 360-336-6214; Facsimile - 360-336-6299

The application and supporting documentation are available for review at the Development Services Department located at City Hall. Copies will be provided upon request at the cost of reproduction. If you wish to comment on the proposed amendments, you may provide verbal or written comment at the public hearings. You may also provide signed, written comments until 5 p.m. on the day before the hearing to the contact person listed above.

SEPA RESPONSIBLE OFFICIAL: Rebecca Lowell

Issued: October 26, 2017

Published: October 30, 2017

SENT TO: SEPA REGISTER, DOE, COE, COMMERCE, CNG, WDFW, DNR, DIKE AND DRAINAGE DISTRICTS (as applicable), DOT, FRONTIER, FRONTIER NW, DAHP, NW CLEAN AIR AGENCY, PORT OF SKAGIT COUNTY, PSE, SAMISH TRIBE, SCOG, SKAGIT COUNTY PDS, PUD #1, SKAGIT RIVER SYSTEM COOPERATIVE, SKAGIT RIVER SYSTEMS, SVC, SKAT, SWINOMISH TRIBE, AND UPPER SKAGIT TRIBE

PLEASE INCLUDE THE PROJECT NUMBER WHEN CALLING FOR PROPER FILE IDENTIFICATION
--



STATE OF WASHINGTON

DEPARTMENT OF COMMERCE

1011 Plum Street SE • PO Box 42525 • Olympia, Washington 98504-2525 • (360) 725-4000
www.commerce.wa.gov

July 27, 2017

Rebecca Lowell
Senior Planner
City of Mount Vernon
Post Office Box 809
Mount Vernon, Washington 98273

Dear Ms. Lowell:

Thank you for sending the Washington State Department of Commerce (Commerce) the following materials as required under RCW 36.70A.106. Please keep this letter as documentation that you have met this procedural requirement.

City of Mount Vernon - Proposed ordinance declaring an emergency and adopting interim regulations with a work plan to establish permanent regulations to address temporary homeless encampments. These materials were received on July 27, 2017 and processed with the Material ID # 23962.

City of Mount Vernon - Proposed amendments to MVMC Chapter 15.40, Critical Areas Ordinance, to comply with GMA requirements following the City's 2016 Comprehensive Plan Update. These materials were received on July 27, 2017 and processed with the Material ID # 23963.

We have forwarded a copy of this notice to other state agencies.

If this submitted material is an adopted amendment, then please keep this letter as documentation that you have met the procedural requirement under RCW 36.70A.106.

If you have submitted this material as a draft amendment, then final adoption may occur no earlier than sixty days following the date of receipt by Commerce. Please remember to submit the final adopted amendment to Commerce within ten days of adoption.

If you have any questions, please contact Growth Management Services at reviewteam@commerce.wa.gov, or call Dave Andersen (509) 434-4491 or Paul Johnson (360) 725-3048.

Sincerely,

Review Team
Growth Management Services



**CITY OF MOUNT VERNON
NOTICE OF PUBLIC HEARING
FILE: CA17-002**

DESCRIPTION: Planning Commission and City Council public hearings to consider the adoption of regulations for temporary homeless encampments, sometimes referred to as 'tent cities'. The proposed regulations, if adopted, would add a new chapter to the Mount Vernon Municipal Code (MVMC) to be named: 17.210 (Temporary Homeless Encampments); and would amend portions of MVMC Chapters 14.05 (Procedures), and 14.15 (Fees).

APPLICANT: City of Mount Vernon, Development Services Department

PUBLIC HEARINGS: a public hearing to consider the above-described regulations is scheduled before the Planning Commission at 6 pm on **Tuesday, January 16, 2018**. The Planning Commission will make a recommendation to the City Council on these code amendments. The City Council will hold a public hearing to consider the Planning Commission's recommendation and public testimony on **Wednesday, January 24, 2018** at 7 pm. Both hearings will be held at the City's Police and Court Campus located at 1805 Continental Place, Mount Vernon.

CONTACT PERSON: Rebecca Lowell, City of Mount Vernon, Development Services Department, 910 Cleveland Avenue, Mount Vernon WA 98273, Telephone - 360-336-6214; Facsimile - 360-336-6299

The staff report, ordinances, and other materials are available for review at the Development Services Department located at City Hall. Development Services staff can also email a copy of these materials to interested parties upon their request. A copy of the proposed regulations can be viewed on the City's website at: www.mountvernonwa.gov – once on the City's website navigate as follows: Departments – Development Services – News and Notices – then scroll down this page to the above-listed City file number. If you wish to comment on the regulations, you may provide verbal or written comment at the public hearing. You may also provide signed, written comments until 5 p.m. on the day before the hearing to the contact person listed above.

December 29, 2017

Greetings,

I am Clive Boulton and live at 4505 Edgemont Place, Mount Vernon, WA 98273 in the Monte Vista neighbourhood within 600 feet of the Seventh Day Adventist Church permitted project PL17-131. Promoted as a temporary cold weather shelter for the homeless, not as a homeless encampment. I stopped by the City of Mount Vernon on December 19 to give further input to City Staff after attending the public meeting at the SDAC on December 14. After meeting and discussing with neighbours I would like to further clarify my input.

First, I recommend the City of Mount Vernon interim homeless encampment code be adjusted to require a ratio of trained volunteers to permitted sheltered persons to make sure code of conduct is followed. Recommend this ratio is 10 to 1. 10 permitted requires 2 trained volunteers; 30 permitted requires 3 trained volunteers; 100 permitted requires 10 trained volunteers.

The SDVC is next door to another Church with a child day care center within 50 feet, kids are playing outside during the day. Further SDAC is within 600 feet of recognized school bus stops, for kids of all ages and special needs. Kids are waiting for the buses as early as 7:00 AM and buses sometimes drop kids off later than school hours. Commentary attached to SDAC permit specifies buses will transit homeless at 7:00 PM and 7:00AM. A hardship exemption has been granted to not check backgrounds of persons permitted.

Second, I recommend the City of Mount Vernon interim homeless encampment code be adjusted to require separation of permitted persons from recognized child day care and school bus stops by either time of day or security trained personnel.

Respectfully,
Clive Boulton.

Beacham, Linda

From: Ted McIlvain <tedlynn4517@gmail.com>
Sent: Wednesday, December 20, 2017 10:10 PM
To: Beacham, Linda
Subject: Homeless Shelter at Seventh day Adventist Church College Way

I would like to add my concerns for the planned shelter. The neighborhood here took on a lot just having two churches so close. Their traffic and the events. I don't think anyone here doesn't want to help people in need. Our neighborhood for the most part is a quiet peaceful sanctuary. I question if it is wise to have shelters ever in or close to a neighborhood. Why is there no checks as to drugs/alcohol abusers staying here. Most shelters require that. I'm not sure the church understands that though 22 sounds like a small number it is a large number to keep an eye on all night with only 2 people. There are so many empty spaces not in neighborhoods that just seem like a easier and safer place for all. Bless everyone for trying to figure this out. More safety measures are needed!

Thank you,
Teddy McIlvain
4517 Edgemont Place

From: [Larry Otos](#)
To: [Lowell, Rebecca](#); [Lowell, Rebecca](#)
Cc: [Beacham, Linda](#); pastor@mountvernonstda.com; [Larry Otos](#)
Subject: COMMENT ON PL17-131 SEVENTH DAY ADVENTIST TEMP. EMERGENCY SHELTER
Date: Thursday, December 21, 2017 9:31:57 AM

Greetings,

I am Larry Otos and live at 4601 Monte Vista Dr. Mount Vernon WA, 98273 in the Monte Vista Terrace neighborhood development just South of the proposed project.

I support the efforts of the Seventh Day Adventist church with some reservations. While everyone needs to help address the homeless issue, only time will tell what will be the right location for a shelter.

The proposed project (PL17-131) has been promoted as a Temporary Shelter. Which means if this project doesn't work and the neighborhood or other areas are negatively affected then the City, neighborhood and others will have a right to address the issue again. I am not clear to what the term Temporary means in this situation. If "Temporary" is during the cold months (November to March) or years 2017-18 to ????.

I would ask that the regulations stipulate that after the first term of service (cold months) that this project be reevaluated with public input. This project may be the right location for inside accommodations for warming the homeless, but it may not be the right location as well.

I am not an authority on housing, however, the staffing levels that have been provided seem inadequate for a shelter that allows individuals to reside who may or may not be clean and sober.

As long as all the activity is housed **inside** (as stated) of the facility there should be no outside indication that there is activity going on at night.

Again, I would request a reevaluation of this project after the first term to take testimony as to the impacts of the temporary emergency shelter at the

Seventh Day Adventist Church.

Respectfully submitted,

Larry Otos

4601 Monte Vista Dr.

Mount Vernon, WA. 98273



Beacham, Linda

From: amy gadsden <amy.e.gadsden@gmail.com>
Sent: Tuesday, December 19, 2017 7:25 PM
To: Beacham, Linda
Subject: Re: SDA cold weather shelter information.

Thank you Linda.

After talking with Tina Tate, director of Friendship House, this evening, I have multiple concerns which she could not accurately answer or the answers were not enough to make me feel safe.

1. People currently under the influence of drugs and alcohol WILL be allowed to be bussed to the church shelter.
2. Since they are allowing overnight smoke breaks with a supervised security/staff, that would leave one person to handle 22 people.
3. Since not allowing people to leave is considered 'false imprisonment' there is no legal way they can keep people from leaving. This would mean they CAN be roaming our neighborhood.
4. There is inadequate street lighting on College Way past 76, and around Monte Vista. This poses a danger to the residents if troubled people did leave.
5. Background checks / sex offender checks may not be done if they don't give ID.
6. This is a rural neighborhood.

Tina addressed my questions and said there was NO compromise available.

1. She said that law enforcement would help escort people out if need be. Again, usually when incidents happen involving drug and alcohol, it's more than one person and usually very out of control. Asking for people to be clean and sober at the time of shelter taking is for the safety of not only neighborhood families but also the Friendship House volunteers and security staff.
2. I asked about more security especially with the chances that people drunk and on drugs could be there and she assured me the two would make it safe. I said especially with one person possibly being outside for the majority of the time, it seems like an unsafe ratio.
3. Tina stated "if a person wanted to leave, they would call them a taxi for downtown". Again, you can not force someone in a taxi. It's not safe for either party and borderline assault. We know that people under the influence of ANYTHING often make poor choices. If they walk out of the building, they will not be able to chase, confine and take them elsewhere. This WILL make these people in our neighborhoods. This location being 1.5 miles from a bus stop just makes it an even more poor location since they will have no where else to go easily.
4. There is going to be no additional lighting. Tina stated they are increasing police patrol but failed to comment when I asked about these problems they are anticipating then.

5. This is easily changed since they are having a meal at the Friendship House first, they could have their names and background checks done in ample time.

6. In order to get the 4.5 miles down to SDA church from the Friendship House, you need to pass multiple vacant buildings in prime, well lit, well populated, non-residential areas. A few examples are the open storefront by Goodwill, next to the Labor and Industries job help and Value Village, the college way Thrifty Foods, and so forth with have even bigger means to accommodate more people with the same amenities outside of an isolated neighborhood.

There is also the Skagit County jail that has common areas no longer in use that could be adequately transformed and used and would not even require bussing from the current Friendship House locations.

I feel the city has not adequately addressed the multitude of problems at hand involving possibly 23 alcohol/drug induced adults with a ratio to two supervisors (and the reality of it being 22:1 when someone is smoking or the possibility of 21:0 when someone is smoking and someone's dog needs to pee at the same time) Working in the hospital and on an ambulance, I know the strength of people under the influence of drugs and alcohol and it's not a standard strength. If it was a truly drug/alcohol induced rage or fight or outburst, one to two adults would most likely not be adequate.

I don't think this has been properly explained to the residents on the surrounding neighborhoods as well properly in the flyer that was left on some doors.

The double standard for the Friendship House living (clean/sober/background checks) versus this shelter (currently using/drunken/no checks) does not seem safe. She could not give me a reason why a compromise that the same standards would uphold, except that this is short term. This short term is a 0.2 mile stroll from my driveway every morning.

This is also along the Mount Vernon School district bus stop where my son waits for the bus every morning. Since there is no real threat if the people were to leave, which they are legally free to, and camp out in the hugely wooded area around the church, I would fear for the safety of the students waiting for the bus.

I would love a way to extend the deadline to go door to door in the neighborhood and truly hand out the proposal paperwork and let the neighbors weigh in before bussing in people past plenty of other vacant spots that could easily handle the same situation.

Please feel free to contact me anytime through this email or my cell (214) 435-9152.

Thank you,
Amy Gadsden

On Tue, Dec 19, 2017 at 12:23 PM Beacham, Linda <lindabe@mountvernonwa.gov> wrote:

Hi Amy,

Yes, you have the correct email. I'll add your name and comments to the record. Feel free to contact me if you have questions.

Linda Beacham

From: [LINDA NALIN](#)
To: [Beacham, Linda](#)
Subject: No
Date: Wednesday, December 20, 2017 2:24:37 AM

Please, no! Too close to where I live. We moved here to escape the same problems this is likely to cause.

From: [Kailey Olin](#)
To: [Beacham, Linda](#)
Subject: Cold weather shelter
Date: Wednesday, December 20, 2017 1:24:51 AM

Hi Linda,

I just bought a house here in Mount Vernon in march. This cold weather shelter will be just over a mile from my house. Not entirely close but living near the Kulshan trail it's a bit worrisome. I already don't feel comfortable walking the trail at night. That in itself should be addressed. But the shelter organization and plans are flat out wreck less. Simply the church does not understand what they're getting themselves into. I work in downtown Seattle. I have a lot of clients who work in emergency response and shelters. They're planning to be under staffed and without an emt on staff they'll just be using tax dollars to get aid to assist them. The problem with this is the drug addicts will use too much before going in at night because they know they won't be able to use again for xyz amount of hours. Then they OD at the church. Now do you OD on the streets and city aid has to assist. Sure. I listen to the scanner. I hear it. But these situations as wonderful as they sound...actually end up causing more OD because of what I mentioned above. They really need to set up an appt to meet with the staff in Seattle and have some over nights so they're prepared for what they're getting into.

Homelessness is an issue. Drug addiction is an issue. But this is not how solving it needs to go about. Unfortunately I can see this ending very badly in the near future. Someone is going to get hurt or killed from this. This does not belong in our neighborhoods!

Thank you,
Kailey

Sent from my iPhone

Beacham, Linda

From: shawnylou@gmail.com
Sent: Thursday, December 21, 2017 4:11 PM
To: Beacham, Linda
Subject: Mount Vernon Seventh Day Adventist shelter site

Today was cold . I cannot imagine the elements that these people go through. Seattle has had programs near homes , near schools, and have not had anything big happen. They tended to monitor the sites and keep things in order . This issue is placed out of paranoia , and ignorance . The people , PEOPLE , have a right to a warm place to stay at night. No one knows what the homeless go through. I am not talking about sex offenders . But I am talking about the mentally ill who walk our streets, I do talk about the meth, and crack, heroin. Yes, all illegal , and they are ill. They self medicate . Most are handled like humans in these cases . They are ill . We would need at least 4 volunteers , not 2. There are some people who get sick , need help, and 2 extra people advised .

I am in The Skagit Highlands , I will be more than happy and secure in helping out. I feel that some folks are over reacting. The places these people want to place these people are along the railway tracks. I have not seen these buildings, but I do know the more reclusive, the more problems. I believe that staying at the church is safe . I believe that we have normal patient people who really care , no judgmental in there belief systems would be perfect for this work. I also believe that the stays overnight go into spring . Why do we want people exposed to hypothermia ? Death sentence right there. I believe we need to have more faith in the human element . People running scared because they are sure their homes will be broken into , they will be harmed , or their children is highly over exaggerated . If Seattle can do major tent cities and have them come out mostly good, and people in churches at night , we as human beings can be more humane. Putting them just anywhere is sad.

I am willing to volunteer my time. I have worked the streets years ago when my daughter was missing. It turned out she was an addict and remained one for 25 years. I raised both her boys. I have had the homeless in my own home. Mostly kids, who have been thrown a way. I have had the worst of the wordt in 25 years . I know the emotional side to this. I beg you to allow 7th Day Adventists to allow this. We are talking only 20 people .. please listen , and know things will be ok.

Shawn L Blumenfeld
567 Monarch Boulevard
Mount Vernon , WA. 98273
360-982-2144

Sent from [Mail](#) for Windows 10

Beacham, Linda

From: mike Ullom <treetr2@hotmail.com>
Sent: Tuesday, December 19, 2017 7:18 PM
To: Beacham, Linda
Subject: SDA homeless shelter

Hello

I am sure you are recieveing plenty of emails against this cold weather shelter opening. This isn't one, I agree with it, give it a chance see if it works, if not then reevaluate the situation.....I live in the area of laventure and college way so I am in the vicinity.....good to see this type of support going on for the homeless community

Mike

Sent from my T-Mobile 4G LTE device

Beacham, Linda

From: Valerie Moore <vmoore10@comcast.net>
Sent: Tuesday, December 19, 2017 5:31 PM
To: Beacham, Linda
Subject: SDA Coldweather shelter

I am a resident of the Monte Vista Neighborhood in Mount Vernon. I attended the informational meeting at the church, Thursday night.

I do not want the Cold Weather Shelter set up in the SDA Church. These people are not allowed at the Friendship House if they are drunk or on drugs, but they will be allowed to go to this shelter.

The ratio of 23 homeless people to 2 Security guards is not adequate coverage. This is a quiet neighborhood which will become a magnet for the homeless if this shelter is allowed.

I believe we are enabling many of these homeless people by offering all the free programs offered. Why try to find a job if you are offered many things free.

I realize that some of these people are mentally ill, so why not use the money to help these people?

It only takes one person to wander away from the shelter to cause a tragedy in our neighborhood. Would you want this Shelter in your neighborhood?

Please reconsider this program.

Sincerely, Valerie Moore

Sent from my iPhone

From: [Boudreau, Jill](#)
To: [Phillips, Chris](#); [Lowell, Rebecca](#)
Subject: FW: Public Hearing on Temporary Homeless Encampment Ordinance and Work Plan
Date: Thursday, July 27, 2017 11:50:33 AM

Here is a record for the hearing for last night.

Jill Boudreau

From: Hudson, Mary
Sent: Wednesday, July 26, 2017 3:57 PM
To: Boudreau, Jill <cjillb@mountvernonwa.gov>
Subject: Fwd: Public Hearing on Temporary Homeless Encampment Ordinance and Work Plan

Sent from my Verizon, Samsung Galaxy smartphone

----- Original message -----

From: "Sr. Susan Wells, SNJM" <SusanWe@ccsww.org>
Date: 7/25/17 9:36 PM (GMT-08:00)
To: Council <Council@mountvernonwa.gov>
Subject: Public Hearing on Temporary Homeless Encampment Ordinance and Work Plan

Dear Council Members and Mayor Boudreau:

I am out of town for a meeting Wednesday and won't be able to attend the scheduled council meeting. But I would like to share with you some concerns that I hope you consider as you hold the Public Hearing regarding the extension of the interim Temporary Homeless Encampment ordinance and the proposed Work Plan submitted by City staff.

First off, I want to thank you all for the efforts you have made to approve the Permanent Supportive Housing project. This project is critical to begin to address the housing crisis that we and many other communities are facing. The project is crucial yes, but it is only a small part of the solution to a huge crisis for our community; a crisis that Council appropriately identified as an "emergency" back in January of 2017.

What I find troubling in light of this "emergency" that we are facing (a crisis which was at the "emergency" status long before the City chose to publicly acknowledge it in January), is the fact that City staff is presenting a work plan that will maybe be ready for Council decision a full year after the "emergency" was declared. It makes me wonder how much of an "emergency" does the Council really believe is present?

There is no doubt that the issue of homelessness is very complicated and has a variety of root

causes, many of which are out of the control of those who experience homelessness. What is not so complicated is the fact that there is a serious lack of available/affordable housing in Mount Vernon and all of Skagit County. What is not complicated is the fact that more housing, especially multifamily housing, will relieve many, (but of course not all) cases of homelessness. And what is not complicated, is that the citizens of Mount Vernon clearly see that instead of expending valuable time and resources on opening up zoning for multifamily housing projects that will help relieve not only much of the homelessness, but will also help alleviate experiences of overcrowding and poverty caused by the high rents that so many of our citizens experience, the City chooses to expend its valuable staff resources on a year's worth of work on this temporary encampment ordinance. Meanwhile it seems that the City makes no progress on rezoning issues, or encouraging the development of multifamily housing, while at the same time, the homeless population continues to rise.

I don't want to diminish the fact that I believe you all have a sincere concern for our homeless neighbors. But I am very frustrated with the lack of meaningful progress on the rezoning of areas for multifamily housing. The housing crisis does not just affect the homeless – it affects all those people who are paying well over one third, and many who are paying over 50% of their income for housing. It affects the businesses because people who are paying too much for rent, are not spending money in area businesses because they don't have any extra money to spend. It affects the attractiveness of this community to prospective job seekers who quickly find they cannot afford to live and work in Mount Vernon.

I urge you to focus your energy and your efforts on encouraging the large number of interested for-profit and nonprofit developers, to build the quality multifamily housing that is critically needed and that will not only enhance our community but will also demonstrate your commitment to easing the immoral crisis of homelessness we are experiencing in Mount Vernon and Skagit County.

Thank you for the important work that you do for our community. I will be back in town on July 31st and would be happy to talk with you in person if you would find that helpful.

May God bless you and give you the strength to seek the solutions that will truly benefit those suffering from homelessness and those suffering from poverty because of the lack of affordable housing. Count on my support and the support of so many other community members who want to help you to create a viable and expedient solution for our community.

Sincerely,
Sister Susan Wells, SNJM

*Sister Susan Wells, SNJM, Director
CCS Farmworker Center / Centro de Trabajadores del Campo
Catholic Community Services / Servicios Comunitarios Católicos
604 S 1st ST
Mount Vernon, WA 98273
Office / Oficina: 360.424.8533*